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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,144	04/03/2001	Matthias Krause	M0656/7065	1823

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EXAMINER

JAMROZ, MARGARET E

ART UNIT	PAPER NUMBER
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1644

DATE MAILED: 12/20/2001

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/825,144

Applicant(s)

KRAUSE ET AL.

Examiner

Margaret E Jamroz

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,7,8,10-14,17-21,23-25,27-29,31-33,35,36,38,40,41,43,47,48,50,53,55,56,58-63 and 65-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1,2,4,6,9,15,16,22,26,30,34,37,42,46,49,51,52,54,57,64,71 and 72 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input checked="" type="checkbox"/> Other: <i>See Continuation Sheet</i> |

U.S. Patent and Trademark Office  
PTO-326 (Rev. 04-01)

**Office Action Summary**

Part of Paper No. 7

Continuation of Attachment(s) 6). Other: restriction election facsimile form.

## DETAILED ACTION

1. The location of your application in the PTO has changed. To aid in correlating papers for this application, all further correspondence regarding this application should be directed to Megan Jamroz in Art Unit 1644, Group 1640, Technology center 1600.

2. Applicant's amendment filed on August 30, 2001 has been entered.

Claims 3, 5, 7, 8, 10-14, 17-21, 23-25, 27-29, 31-33, 35-36, 38, 40-41, 43-45, 47-48, 50, 53, 55-56, 58-63, and 65-70 have been canceled.

Claims 1-2, 4, 6, 9, 15-16, 22, 26, 30, 34, 37, 39, 42, 46, 49, 51-52, 54, 57, 64, and 71-72 are pending.

### ***Restriction Requirement***

3. **Please Note:** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

4. The following is noted:

In the instant application, claims 1, 2, 4, 6, 9, 15, 16, 22, 26, 30, 34, 37, 39, 42, 49, 51, 52, 54, 57, and 64 recite compositions and methods wherein the inhibitor can be ActA repeats, EVH1 binding peptides, ScarWA, Fyb/SLAP fragments (SEQ ID NO: 15), non-functional ENA/VASP proteins, Fyb/SLAP specific antibodies, Fyb/SLAP-specific antisense, or ENA/VASP protein antisense. ActA repeats, EVH1 binding peptides, ScarWA, Fyb/SLAP fragments, non-functional ENA/VASP proteins, Fyb/SLAP specific antibodies, Fyb/SLAP antisense, and ENA/VASP antisense have different structures and modes of actions; a person of ordinary skill in the art would not envision one in view of the other. The restriction, therefore, has been set forth for the compositions and methods encompassing an inhibitor, irrespective of the format of the claims.

5. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-2, 6, 26, 30, 34, 39, 42, and 46, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with ActA repeats, classified in Class 435, subclass 375.

II. Claims 1-2, 6, 26, 30, 34, 39, 42, and 46, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with an EVH1 binding peptide, classified in Class 435, subclass 375.

III. Claims 1-2, 6, 26, 30, 34, 39, 42, and 46, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with ScarWA, classified in Class 435, subclass 375.

IV. Claims 1-2, 4, 6, 26, 30, 34, 39, 42, and 46, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with Fyb/SLAP fragments (SEQ ID NO: 15), classified in Class 435, subclass 375.

V. Claims 1-2, 6, 26, 30, 34, 39, 42, and 46, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with non-functional ENA/VASP proteins, classified in Class 435, subclass 375.

VI. Claims 1-2, 6, 26, 30, 34, 39, 42, and 46, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with Fyb/SLAP specific antibodies, classified in Class 435, subclass 7.21.

VII. Claims 1-2, 6, 9, 26, 30, 34, 37, 39, 42, 46, and 49, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with Fyb/SLAP antisense, classified in Class 435, subclass 6.

VIII. Claims 1-2, 4, 6, 9, 26, 30, 34, 37, 39, 42, 46, and 49, drawn to methods for inhibiting cytoskeletal rearrangement, inhibiting a T cell response, and increasing platelet aggregation with ENA/VASP antisense, classified in Class 435, subclass 6.

IX. Claims 15 and 16, drawn to a method for enhancing cytoskeletal rearrangement in a cell or cell fragment with a Fyb/SLAP polypeptide; classified in Class 435, subclass 375.

X. Claim 22, drawn to method for increasing a T cell response to T cell receptor stimulation comprising contacting a T cell with an activator, classified in Class 435, subclass 377.

XI. Claims 51 and 54, drawn to a composition comprising ActA repeats and a pharmaceutically acceptable carrier, classified in Class 514, subclass 2.

XII. Claims 51 and 54, drawn to a composition comprising EVH1 binding peptides and a pharmaceutically acceptable carrier, classified in Class 514, subclass 2.

XIII. Claims 51 and 54, drawn to a composition comprising ScarWA and a pharmaceutically acceptable carrier, classified in Class 514, subclass 2.

XIV. Claims 51 and 54, drawn to a composition comprising non-functional ENA/VASP proteins and a pharmaceutically acceptable carrier, classified in Class 424, subclass 2.

XV. Claims 51 and 54, drawn to a composition comprising Fyb/SLAP specific antibodies and a pharmaceutically acceptable carrier, classified in Class 424, subclass 130.1.

XVI. Claims 51-52 and 54, drawn to a composition comprising Fyb/SLAP fragments (SEQ ID NO:15) and a pharmaceutically acceptable carrier, classified in Class 514, subclass 17.

XVII. Claims 51, 54, and 57, drawn to a composition comprising Fyb/SLAP antisense and a pharmaceutically acceptable carrier, classified in Class 514, subclass 44.

XVIII. Claims 51, 54, and 57, drawn to a composition comprising ENA/VASP antisense and a pharmaceutically acceptable carrier, classified in Class 514, subclass 44.

XIX. Claim 64, drawn to an isolated human Fyb/SLAP2 polypeptide comprising the amino acids 637-682 of SEQ ID NO: 4, classified as Class 530, subclass 324.

XX. Claims 71-72, drawn to a method for identifying lead compounds for a pharmaceutical agent useful in the treatment of disease associated with Fyb/SLAP-Ena/VASP complex formation, classified in Class 435, subclass 4.

6. Groups XI-XIX are different products. ActA repeats, EVH1 binding peptides, ScarWA, Fyb/SLAP fragments, non-functional ENA/VASP proteins, Fyb/SLAP specific antibodies, Fyb/SLAP antisense, and ENA/VASP antisense differ with respect to their structures and physicochemical properties; therefore each product is patentably distinct.

7. Groups I-X and XX different methods. The inventions as grouped in Groups I-X and XX are distinct, each from the other, because they represent different inventive endeavors as one does not suggest the other; therefore, each method is patentably distinct.

8. Groups III and IV/V are related as product and process of using. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)).

In the instant case the product of Group XIX can be used as an immunogen to make antibodies, in addition to the methods of enhancing recited.

9. These inventions are distinct for the reasons given above. In addition, they have acquired a separate status in the art as shown by different classification and/or recognized divergent subject matter. Further, even though in some cases the classification is shared, a different field of search would be required based upon the structurally distinct products recited and the various methods of use comprising distinct method steps. Therefore restriction for examination purposes as indicated is proper.

10. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

11. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Megan Jamroz whose telephone number is (703) 308-8365. The examiner can normally be reached Monday through Friday from 8:00 AM to 4:30 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Margaret (Megan) Jamroz, Ph.D.  
Patent Examiner  
Technology Center 1600  
December 18, 2001

*Patrick J. Nolan*  
PATRICK J. NOLAN, PH.D.  
PRIMARY EXAMINER  
12/18/01